

§ 175. Assignment of judges; divisions; hearings; quorum; decisions.

(a) Judges of the Court of Claims shall sit on the court and its divisions in such order and at such times as the court directs.

(b) The Court of Claims may authorize the hearing and determination of cases and controversies by separate divisions, each consisting of three judges. Such divisions shall sit at the times and places and hear the cases and controversies assigned as the court directs.

(c) Cases and controversies shall be heard and determined by a court or division of not more than three judges, unless a hearing en banc is ordered by the court or by the chief judge. The court en banc for an initial hearing shall consist of the judges of the Court of Claims in regular active service. In case of a vacancy in the court or of the inability of a judge thereof in regular active service to sit, a justice or judge assigned to the court pursuant to chapter 13 of this title shall be competent to sit in the court en banc when designated by the court to do so.

(d) A rehearing en banc may be ordered by a majority of the judges of the Court of Claims in regular active service. The court en banc for a rehearing shall consist of the judges of the Court of Claims in regular active service. A judge of the Court of Claims who has retired from regular active service shall also be competent to sit as a judge of the court en banc in the rehearing of a case or controversy if he sat on the court or division at the original hearing thereof.

(e) Two judges shall constitute a quorum of a division of the Court of Claims, four judges shall constitute a quorum of a court en banc.

(f) A majority of the judges or justices who actually sit on the court or division or court en banc must concur in any decision. (Added Pub. L. 89-425, § 2, May 11, 1966, 80 Stat. 140.)

#### CODIFICATION

A prior section 175, act June 25, 1948, ch. 646, 62 Stat. 898, which required three judges of the Court of Claims to constitute a quorum and the concurrence of three judges for any decision, was stricken by section 2 of Pub. L. 89-425.

### Chapter 9.—COURT OF CUSTOMS AND PATENT APPEALS

§ 211. Appointment and number of judges.

The President shall appoint, by and with the advice and consent of the Senate, a chief judge and four associate judges who shall constitute a court of record known as the United States Court of Customs and Patent Appeals. Such court is hereby declared to be a court established under article III of the Constitution of the United States. (June 25, 1948, ch. 646, 62 Stat. 899; Aug. 25, 1958, Pub. L. 85-755, § 1, 72 Stat. 848.)

### Chapter 11.—CUSTOMS COURT

§§ 251, 255.

#### TRANSFER OF FUNCTION

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise

of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 70 Stat. 1317, set out as a note under section 1332-15 of Title 5, Executive Departments and Government Officers and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 20 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1230, set out as a note under section 241 of Title 5.

### Chapter 13.—ASSIGNMENT OF JUDGES TO OTHER COURTS

#### COURT OF CLAIMS EN BANC

Competency of justice or judge assigned pursuant to this chapter to sit in Court of Claims En Banc in case of vacancy in Court of Claims or inability of judge of such Court in regular active service to sit, see section 175(c) of this title.

### Chapter 17.—RESIGNATION AND RETIREMENT OF JUDGES

§ 371. Resignation or retirement for age.

#### COMPUTATION OF JUDICIAL SERVICE, DISTRICT OF ALASKA

Pub. L. 89-70, July 8, 1965, 79 Stat. 213, provided: "That, notwithstanding any other provision of law, any service as a judge of the District Court for the Territory of Alaska shall be included in computing under sections 371 and 372 of Title 28, United States Code, the aggregate years of judicial service of a United States district judge for the district of Alaska."

§ 372. Retirement for disability; substitute judge on failure to retire.

#### COMPUTATION OF JUDICIAL SERVICE, DISTRICT OF ALASKA

Inclusion of service as judge of the District Court for the Territory of Alaska in the computation of years of judicial service for judges of the United States District Court for the District of Alaska, see note set out under section 371 of this title.

§ 373. Judges in Territories and Possessions.

Any judge of the United States District Court for the District of the Canal Zone, the District Court of Guam, or the District Court of the Virgin Islands, who resigns after attaining the age of seventy years and after serving at least ten years, continuously or otherwise, or after attaining the age of sixty-five years and after serving at least fifteen years, continuously or otherwise, shall continue during the remainder of his life to receive the salary he received when he relinquished office.

(As amended Sept. 12, 1966, Pub. L. 89-571, § 2, 80 Stat. 764.)

#### AMENDMENTS

1966—Pub. L. 89-571 removed the United States District Court for the District of Puerto Rico from the list of courts to which the provisions of the section are applicable.

#### TENURE AND SALARY RIGHTS OF JUDGES IN PUERTO RICO IN OFFICE ON SEPTEMBER 12, 1966

Amendment of section by Pub. L. 89-571 not to affect tenure of office or right to continue to receive salary after resignation, retirement, or failure of reappointment of any district judge for the District of Puerto Rico in office on September 12, 1966, see section 4 of Pub. L. 89-571, set out as a note under section 134 of this title.